

CHARLES E. REYNOLDS

IBLA 73-13      Decided February 7, 1973

An appeal from a Wyoming State Office, Bureau of Land Management, decision denying reinstatement of oil and gas lease Wyo. 24371 terminated by operation of law for failure to pay the annual rental on or prior to the anniversary date.

Affirmed.

Oil and Gas Leases: Reinstatement—Oil and Gas Leases: Rentals

An oil and gas lease terminated by operation of law for failure to timely pay the advance rentals can only be reinstated when the lessee shows that his failure to pay the rental on or prior to the anniversary date was justifiable or not due to a lack of reasonable diligence.

APPEARANCES: Edward C. Dowd, Esq., of Dowd and Carey, Escondido, California, for the appellant.

OPINION BY MR. HENRIQUES

Charles E. Reynolds appeals from a decision of the Wyoming State Office, Bureau of Land Management, refusing to grant reinstatement of his oil and gas lease Wyo. 24371, terminated by operation of law for failure to pay the annual rental on or before the anniversary date.

The rental was due on or before October 1, 1971. The envelope containing the rental was postmarked September 30, 1971, at Escondido, California. Payment was not received until October 4, 1971. Thus, under section 31 of the Mineral Leasing Act, 30 U.S.C. § 188(b) (1970), the lease terminated by operation of law.

The question then is whether the appellant's failure to pay the annual rental was justifiable or not due to a lack of reasonable diligence. Considering the distance involved from Escondido, California, to Cheyenne, Wyoming, it cannot be said that the appellant exercised reasonable diligence. See Louis Samuel, et al., 8 IBLA 268 (1972).

The appellant contends that his failure to exercise due diligence was justifiable as he was in the process of negotiating the sale of his lease. The State Office rejected this justification noting:

Before this office can approve an assignment of an oil and gas lease, the lease account must be maintained in good standing (regulation 43 CFR 3106.2-4); therefore, if you are attempting to sell this lease, we believe you should have made sure the rental was properly paid.

We agree. We do not feel that the circumstances of the lessee were of such a nature so as to make this failure to pay timely the advance rental "justifiable."

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

---

Douglas E. Henriques, Member

We concur:

---

Edward W. Stuebing, Member

---

Anne Poindexter Lewis, Member

